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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,315	12/21/2000	Szu-Min Lin	ASP-14	5885

7590

07/31/2003

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EXAMINER

CROSS, LATOYA I

ART UNIT

PAPER NUMBER

1743

DATE MAILED: 07/31/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/742,315

Applicant(s)

LIN ET AL.

Examiner

LaToya I. Cross

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1743

-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 15-17 and 22 is/are rejected.
- 7) ☒ Claim(s) 5, 11-14, 8-21 and 23-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicants' amendment filed on May 8, 2003 and entered as Paper No. 10. Claims 1-32 are pending.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-10, 15-17 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4,636,472 to Brusco.

Brusco teaches a sterilization test pack. The test pack comprises several pads (20, 30, 40) disposed around a biological indicator (26) and/or a chemical indicator (24). The pads are gas permeable allowing gas to pass through to the indicators along the edges of the pack. The cavity where the biological and/or chemical indicators are located is equivalent to Applicants' second space. The pads and indicators are formed into a stack and are surrounded by CSR wrap. The pack is placed into sterilization equipment (12), shown in figure 1. Steam, an anti-microbial source, flows into the sterilization equipment, presumably through the inlet pictured and sterilizes the articles (14) present. The space containing the articles is equivalent to Applicants' first space. The first space is detachable from the second space since the test pack can be removed from the sterilization equipment. The anti-microbial source (here steam) flows through the first space and then contacts the indicator located inside the test pack and inside

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the second space, as recited in claim 1. The efficacy of the sterilization process is determined by examining the indicators, as recited in claims 15-17.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be anticipated by Bruso.

Allowable Subject Matter

3. Claims 5, 11-14, 18-21 and 23-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach or suggest a flow restriction between the first and second space or hydrogen peroxide is used as the antimicrobial agent. Further, there is no teaching or suggestion of a fan to assist in flow or the first subspaces that are detachable from the container. The Examiner suggests that Applicant incorporate the limitations of claim 5 into the independent to advance the prosecution of this application.

Response to Arguments

4. Applicant's arguments filed May 8, 2003 have been fully considered but they are not persuasive. With respect to the rejection over Bruso, Applicants argue that the newly introduced limitation of the antimicrobial agent comprising an aperture into the first space from outside the container overcomes the rejection over Bruso. The Examiner disagrees. In Bruso, figure 1, the inside of the sterilization equipment (12) is considered to be equivalent to the first space adapted to contain an article to be sterilized. The sterilization pack (10) is considered to be the second space because it contains the indicator. With respect to the newly

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added limitation, steam (an antimicrobial source) is introduced into sterilization equipment via an inlet (aperture) from outside the sterilization equipment. The steam is introduced into the first space. The second space is in communication with the antimicrobial source by way of the first space. Thus, the Bruso reference continues to read on the claimed invention.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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July 28, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700